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CONFIDENTIAL ATTORNEY-CLIENT PRIVILEGED COMMUNICATION

TO: Domenic J. Sarno, Mayor
DATE: August 3, 2011
FROM: Edward M. Pikula, City Solicitor
SUBJECT: Superintendent of Schools Contract and Benefits
CC: Lee Erdman, CAFO
Mark Ianello, Internal Auditor

You requested that the employment contract and benefits for the Superintendent of Schools be reviewed from a legal and financial perspective, in particular as it relates to payment of expenses by the City, in general, and payment of relocation and travel expenses, in particular. I am attaching a copy of a legal review provided by Attorney Melinda Phelps prepared for the School Committee. This memorandum provides a comprehensive overview of the legal issues relating to the subject matter. In addition, the Law Department provides some follow-up information on the subject matter.

The Superintendent's contract requires periodic salary surveys of the total compensation for comparable school districts to use as benchmarks. The salary survey results generated pursuant to the Superintendent's contract can be reviewed for comparison of total compensation paid to the Springfield Superintendent. By way of background, you should note that a School Superintendent under Massachusetts law is usually hired by the local school board. However, due to the imposition of a Finance Control Board in Springfield at the time of Dr. Ingram's contract execution, the authority of the School Committee was superseded. Specifically, the Finance Control Board sought a legal opinion from the General Counsel for the Secretary of Administration and Finance, who set forth the authority

of the Finance Control Board over School Superintendent hiring. A copy of that opinion is attached to this memorandum.

As discussed in that legal opinion, Dr. Ingram's contract and benefit package includes two letters. On June 30, 2008, Stephen J. Lisauskas, in his capacity as Executive Director of the board, pursuant to the authority granted to him by the June 23, 2008 board vote, wrote a letter on board letterhead to Dr. Ingram at his address in Oklahoma "to confirm our agreement to compensate you for transition-related expenses associated with you joining the Springfield Public School system as Superintendent." (Exhibit F) In addition, a second letter dated June 25, 2009.

This second letter, signed by Dr. Ingram and Mr. Lisauskas, extends the "Relocation Expenses" paragraph of the June 30, 2008 letter to June 30, 2011. That is, should Dr. Ingram need to move more of his personal belongings to Springfield at any time between July 1, 2009 and June 30, 2011, the Executive Director, again, pursuant to the authority granted to him by the board to negotiate and execute an agreement regarding relocation expenses, bound the city to pay for those expenses through June 30, 2011. No expenses have been incurred pursuant to this paragraph, none have been asked to be reimbursed, and therefore, the June 25, 2009 letter, is moot.

The Springfield Superintendent was hired after a national search conducted by a consultant retained by the Finance Control Board. Four finalists were then publically interviewed by a panel consisting of community members, as well as the School Committee. Dr. Ingram was selected as a result of the interview process and a vote of the School Committee and Control Board.

The high salary and benefits as well as other perks like housing and car allowances typically paid to School Superintendents has been the subject of controversy throughout the country¹. Although Massachusetts does not regulate such salaries, two states have capped superintendent pay: New Jersey and Minnesota, according to the American Association of School Administrators. The governor of New York had proposed a similar cap. A growing number of states, including Indiana and Illinois are

¹"Perks climb for region's school chiefs", James Vaznis and Matt Carroll, Boston Globe, February 11, 2007.

considering caps.² Generally speaking, salaries of School Superintendents are commensurate with education and experience, and the size of the School System.

Considering this background, the Finance Control Board negotiated a contract and benefits with the Springfield Superintendent which included \$30,000 for “relocation.” Doctor Ingram received the lump sum benefit (less tax and retirement withholdings of \$11,990.87; for a net amount of \$18,009.13) in August 2008. The Legislative and Contracts Subcommittee of the School Committee, on Thursday July 28, 2011, voted to recommend to the full School Committee that it request Dr. Ingram pay back this compensation which was paid three years ago, apparently on the belief that the funds were intended solely for the purpose of purchasing a house. While the School Committee is within their legal rights to request such reimbursement, it is the opinion of the Law Department that the Superintendent is under no legal obligation to re-pay the funds to the City. In this respect, the memorandum from Attorney Phelps provides sound legal reasoning as to the interpretation of the contract provisions as established by the Finance Control Board. The Law Department suggests that, to the extent any future contracts include similar relocation provisions, conditions for repayment be included in the event of a failure of the employee to meet the intended terms. No such provisions are included in the current Superintendent’s contract. While it is a condition of the contract (See paragraph 13) that the Superintendent “maintain a residence in Springfield”, the contract in no way obligates the Superintendent to the purchase of a house in fee simple title. Paragraph 13 is satisfied by rental of an apartment, and there is no dispute that the Superintendent does rent an apartment in Springfield for his residence.

Other issues have arisen as to expenses for which the Superintendent may have sought reimbursement. Specifically, it is alleged that the Superintendent submitted receipts which included alcoholic beverages. I have not been provided evidence of any such reimbursements, but would defer

² See article located from the website of the American Association of School Administrators: <http://flyergroup.com/local/x947030117/School-superintendent-pay-to-come-under-scrutiny>

to the City's Office of Internal Auditing to review the history of reimbursement to determine whether any such payments were made. If so, the Superintendent should return the payment.

Another issue has arisen as to reimbursement for parking. According to the Superintendent's contract, \$650.00 per month is paid to the Superintendent for motor vehicle expenses and in lieu of all transportation related expenses including mileage, tolls, parking related to the motor vehicle for travel within the Commonwealth. However, the contract also provides for reimbursement of "all travel expenses" when pre-approved out of state travel occurs. (See paragraph 15). As such, parking costs related to out of state travel (or more than 150 miles) would also be entitled to reimbursement above and beyond the \$650.00 monthly limit. As this issue involves a review of the books and accounts of the City, the Law Department would defer to the Office of the Internal Auditor for review. If the Internal Auditor determines that any such payments were made for parking in violation of the contract, such funds should be reimbursed by the Superintendent.

Edward M. Pikula, City Solicitor